

SUPREME COURT OF OKLAHOMA

IN RE: AMENDMENTS TO OKLAHOMA SUPREME COURT

RULES

2014 OK 40 (Okla. 2014) · Decided May 12, 2014

SUMMARY

The Oklahoma Supreme Court adopted new Rule 1.410 concerning audio recording of proceedings conducted with non-certified foreign language interpreters and reserved Rules 1.402 through 1.409. The rule addresses recording methods, storage and preservation, waivers, copy fees, telephonic interpreters, and implementation by August 1, 2014, subject to equipment availability.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Chief Justice; All justices
JURISDICTION	Oklahoma
DECIDED	May 12, 2014
DISPOSITION	other
PROCEDURAL POSTURE	The Supreme Court of Oklahoma exercised its rulemaking authority and adopted a new Oklahoma Supreme Court Rule 1.410.
PRECEDENTIAL VALUE	Rulemaking order adopting Oklahoma Supreme Court Rule 1.410; opinion notice states it had not been released for publication and was subject to revision or withdrawal.

TOPICS

civil procedure evidence

PRACTICE AREAS

civil procedure court administration evidence

QUESTIONS PRESENTED

1. Whether the Supreme Court of Oklahoma should adopt a new rule governing audio recording of proceedings involving non-certified foreign-language interpreters.

2. What procedures should govern the preservation, storage, reproduction, waiver, and implementation of recordings required by 20 O.S. § 1710.

HOLDINGS

1. The Supreme Court of Oklahoma adopted Rule 1.410, requiring that, whenever possible, proceedings interpreted by a non-certified foreign-language interpreter be audio recorded and that the recording be made an official part of the court record.
2. If recording cannot be accomplished because of technical or other reasons, a court may permit waiver of the recording requirement only upon finding that delay would cause substantial harm or prejudice and after obtaining a knowing and voluntary waiver on the record and in writing from the necessary parties or participants.
3. Rules 1.402 through 1.409 of Part XI of the Oklahoma Supreme Court Rules were reserved.

KEY QUOTATIONS

“It is the policy of the Oklahoma Supreme Court that, whenever possible, any court proceeding interpreted by a non-certified foreign language interpreter shall be audio taped and the recording shall be made an official part of the record as required by 20 O.S. § 1710.” (Rule 1.410(A))

“A knowing and voluntary waiver from the necessary party/parties or other participants of the right to have the proceeding recorded shall be obtained on the record prior to conducting the proceeding, and also documented in written form.” (Rule 1.410(C))

FACTUAL BACKGROUND

The court addressed the need for procedures governing audio recording when court proceedings use non-certified foreign-language interpreters. The adopted rule establishes requirements for recording, storing, labeling, backing up, reproducing, and providing access to those recordings, subject to equipment availability and specified exceptions.

PROCEDURAL HISTORY

This was a rulemaking order issued by the Supreme Court of Oklahoma in conference, rather than an appeal from a lower-court judgment. The court adopted Rule 1.410 concerning audio recording of proceedings involving non-certified foreign-language interpreters and reserved Rules 1.402 through 1.409.

DISPOSITION

other

OPINION

PER CURIAM.

OSCN Found Document:IN RE: AMENDMENTS TO OKLAHOMA SUPREME COURT RULES OSCN navigation Home Courts Court Dockets Legal Research Calendar Help Previous Case Top Of Index This Point in Index Citationize Next Case Print Only IN RE: AMENDMENTS TO OKLAHOMA SUPREME COURT RULES2014 OK 40Decided: 05/12/2014THE SUPREME COURT OF THE STATE OF OKLAHOMACite as: 2014 OK 40, __ P.3d __ NOTICE: THIS OPINION HAS NOT BEEN RELEASED FOR PUBLICATION.

UNTIL RELEASED, IT IS SUBJECT TO REVISION OR WITHDRAWAL. IN RE: AMENDMENTS TO OKLAHOMA SUPREME COURT RULES ORDER ESTABLISHING NEW OKLAHOMA SUPREME COURT RULE 1.410 CONCERNING AUDIO RECORDING OF PROCEEDINGS WITH NON-CERTIFIED FOREIGN LANGUAGE INTERPRETERS AND RESERVING CERTAIN RULE NUMBERS The following new rule of the Oklahoma Supreme Court establishing procedures and policies regarding the audio recording of proceedings with non-certified foreign language interpreters is hereby adopted to be codified at Part XII of the Oklahoma Supreme Court Rules, Okla. Stat. tit.

12, ch. 15, app. 1, and is attached as an exhibit to this Order. In addition, the following numbers of the Oklahoma Supreme Court Rules will be reserved under Part XI, Oklahoma Access to Justice Commission: rule numbers 1.402 through 1.409. DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE THIS 12th DAY OF MAY, 2014. /S/CHIEF JUSTICE ALL JUSTICES CONCUR PART XII.

OKLAHOMA COURTROOM INTERPRETERS RULE 1.410 - Audio Recording of Proceedings with Non-certified Foreign Language Interpreters A. It is the policy of the Oklahoma Supreme Court that, whenever possible, any court proceeding interpreted by a non-certified foreign language interpreter shall be audio taped and the recording shall be made an official part of the record as required by 20 O.S. § 1710.

B. The audio recording required by 20 O.S. § 1710 may be made with the courtroom's audio-visual equipment, if any, with the court reporter's equipment, or with a portable audio recording device provided by the Administrative Office of the Courts for this purpose.¹.

The audio recording shall be saved in a commonly used digital audio format which the court clerk can reproduce upon request (such as MP3). For proceedings lasting longer than thirty (30) minutes, the audio file should be saved in the MP3 format whenever possible (this may be accomplished by converting the audio file to MP3 format after the conclusion of proceeding).

2. The audio recording shall be saved on a digital storage device which shall be included as part of the official court record. Whenever possible, a compact disc ("CD-ROM") shall be used for this purpose. 3. The judge or his/her staff shall be responsible for transferring the audio file from the

digital recording device onto a compact disc and filing the same in the case file with the court clerk.

If the equipment available to the judge or his/her staff cannot save the audio file to a CD-ROM then the court clerk shall assist the judge in doing so, using the equipment in the court clerk's office. 4. The CD-ROM or other audio storage device shall be labeled with the case name, case number, and the date and description of the proceeding, and placed in an envelope which is clearly labeled with the same information, file stamped, and physically filed in the court file.

5. For purposes of disaster recovery protection and preservation of the court record, the court clerk shall save a backup copy of the audio recording as an electronic file in a designated directory on the court's network file server.

The clerk shall utilize clearly labeled file folders and file names which reference the case number and date of the proceeding. The Administrative Office of the Courts shall establish a specially designated directory for each district court on the OCIS network file server which will be used by the court clerk for this purpose. 6. Whenever possible, the contents of the CD-ROM or other storage device filed in the case shall be limited to the individual proceeding interpreted by the non-certified foreign language interpreter, and shall not contain the audio recording of proceedings in other cases.

7. In courts where the new Oklahoma Unified Case Management System (OUCMS) has been implemented and is capable of including audio files as part of the electronic court record, the audio recording required by 20 O.S. §1710 may be maintained by the court clerk as an electronic record in the OUCMS, and the court clerk shall not be required to preserve the recording on a CD-ROM or other storage device or save a duplicate copy on the network file server.

C. In the event an audio recording cannot be accomplished because of technical or other reasons, and only upon a finding that delay would cause substantial harm or prejudice, the court may allow a party to waive the audio recording required by 20 O.S. § 1710. A knowing and voluntary waiver from the necessary party/parties or other participants of the right to have the proceeding recorded shall be obtained on the record prior to conducting the proceeding, and also documented in written form.

D. When a copy of an audio recording required by 20 O.S. § 1710 is requested, the court clerk shall collect and deposit in the court fund a copy fee in the amount of \$20.00. The audio recording shall be reproduced onto a compact disc in the original format.

The clerk shall not release the original CD or storage device contained in the record to a member of the public. The clerk may use the backup copy saved on the court's network file server to reproduce the audio recording. E. Interpreters provided via a telephonic interpreting service

approved by the Supreme Court shall be deemed to be certified interpreters for the purposes of 20 O.S. § 1710.

F. Implementation of this procedure shall occur on or before August 1, 2014, subject to equipment availability. Citationizer© Summary of Documents Citing This DocumentCite Name Level Title 12. Civil Procedure CiteNameLevel 12 O.S. RULE 1.410, Audio Recording of Proceedings with Non-certified Foreign Language InterpretersCitedCitationizer: Table of AuthorityCite Name Level Title 20.

Courts CiteNameLevel 20 O.S. 1710, Use of Services of Non-Certified Person - Good CauseDiscussed at Length